

AMENDED IN SENATE MAY 19, 2009

AMENDED IN SENATE APRIL 20, 2009

SENATE BILL

No. 43

Introduced by Senator Alquist

January 6, 2009

An act to add Section 851.5 to the Business and Professions Code, to amend Section 128051 of the Health and Safety Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to health professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Alquist. Health professions.

Existing law provides for the licensure and regulation of various healing arts by boards within the Department of Consumer Affairs. Existing law establishes the Task Force on Culturally and Linguistically Competent Physicians and Dentists and assigns the task force various duties, including, among other things, identifying the key cultural elements necessary to meet cultural competency. Existing law authorizes physicians and surgeons, dentists, and dental auxiliaries to report information regarding their cultural background and foreign language proficiency to their respective licensing boards and requires those boards to collect that information, as specified.

This bill would authorize the healing arts boards, as defined, to collect information regarding the cultural and linguistic competency of persons licensed, certified, registered, or otherwise subject to regulation by those boards. The bill would require that this information be used only for the purpose of meeting the cultural and linguistic concerns of the state's diverse patient population.

Existing law requires the Office of Statewide Health Planning and Development to establish a health care workforce clearinghouse to serve as the central source of health care workforce and educational data in the state and requires the office to work with specified entities to collect that data. Existing law requires the Director of the Employment Development Department to permit the use of information in his or her possession for specified purposes.

This bill would additionally require the director to permit the use of that information ~~in order to enable~~ by the Office of Statewide Health Planning and Development ~~to obtain specified data~~ for the health care workforce clearinghouse. The bill would specify that personally identifiable information obtained by that office for the health care workforce clearinghouse is confidential and not subject to public inspection.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 851.5 is added to the Business and
- 2 Professions Code, to read:
- 3 851.5. (a) A healing arts board referred to in this division may,
- 4 in a manner deemed appropriate by the board, collect information
- 5 regarding the cultural and linguistic competency of persons
- 6 licensed, certified, registered, or otherwise subject to regulation
- 7 by that board.
- 8 (b) The information collected pursuant to this section shall be
- 9 used for the purpose of meeting the cultural and linguistic concerns
- 10 of the state's diverse patient population. Any other use of the
- 11 information collected pursuant to this section is prohibited.
- 12 (c) Personally identifiable information collected pursuant to this
- 13 section shall be confidential and not subject to public inspection.
- 14 (d) The authority provided in this section shall be in addition
- 15 to, and not a limitation on, the authority provided under subdivision
- 16 (c) of Section 2425.3 and subdivision (d) of Section 1717.5.
- 17 (e) For purposes of this section, "board" refers to any healing
- 18 arts board, division, or examining committee that licenses, certifies,
- 19 or regulates health professionals pursuant to this division.
- 20 SEC. 2. Section 128051 of the Health and Safety Code is
- 21 amended to read:

1 128051. (a) The Office of Statewide Health Planning and
2 Development shall work with the Employment Development
3 Department's Labor Market Information Division, state licensing
4 boards, and state higher education entities to collect, to the extent
5 available, all of the following data:

6 (1) The current supply of health care workers, by specialty.

7 (2) The geographical distribution of health care workers, by
8 specialty.

9 (3) The diversity of the health care workforce, by specialty,
10 including, but not necessarily limited to, data on race, ethnicity,
11 and languages spoken.

12 (4) The current and forecasted demand for health care workers,
13 by specialty.

14 (5) The educational capacity to produce trained, certified, and
15 licensed health care workers, by specialty and by geographical
16 distribution, including, but not necessarily limited to, the number
17 of educational slots, the number of enrollments, the attrition rate,
18 and wait time to enter the program of study.

19 (b) Personally identifiable information collected for purposes
20 of this article shall be confidential and not subject to public
21 inspection.

22 SEC. 3. Section 1095 of the Unemployment Insurance Code
23 is amended to read:

24 1095. The director shall permit the use of any information in
25 his or her possession to the extent necessary for any of the
26 following purposes and may require reimbursement for all direct
27 costs incurred in providing any and all information specified in
28 this section, except information specified in subdivisions (a) to
29 (e), inclusive:

30 (a) To enable the director or his or her representative to carry
31 out his or her responsibilities under this code.

32 (b) To properly present a claim for benefits.

33 (c) To acquaint a worker or his or her authorized agent with his
34 or her existing or prospective right to benefits.

35 (d) To furnish an employer or his or her authorized agent with
36 information to enable him or her to fully discharge his or her
37 obligations or safeguard his or her rights under this division or
38 Division 3 (commencing with Section 9000).

39 (e) To enable an employer to receive a reduction in contribution
40 rate.

1 (f) To enable federal, state, or local government departments
2 or agencies, subject to federal law, to verify or determine the
3 eligibility or entitlement of an applicant for, or a recipient of, public
4 social services provided pursuant to Division 9 (commencing with
5 Section 10000) of the Welfare and Institutions Code, or Part A of
6 Title IV of the Social Security Act, where the verification or
7 determination is directly connected with, and limited to, the
8 administration of public social services.

9 (g) To enable county administrators of general relief or
10 assistance, or their representatives, to determine entitlement to
11 locally provided general relief or assistance, where the
12 determination is directly connected with, and limited to, the
13 administration of general relief or assistance.

14 (h) To enable state or local governmental departments or
15 agencies to seek criminal, civil, or administrative remedies in
16 connection with the unlawful application for, or receipt of, relief
17 provided under Division 9 (commencing with Section 10000) of
18 the Welfare and Institutions Code or to enable the collection of
19 expenditures for medical assistance services pursuant to Part 5
20 (commencing with Section 17000) of Division 9 of the Welfare
21 and Institutions Code.

22 (i) To provide any law enforcement agency with the name,
23 address, telephone number, birth date, social security number,
24 physical description, and names and addresses of present and past
25 employers, of any victim, suspect, missing person, potential
26 witness, or person for whom a felony arrest warrant has been
27 issued, when a request for this information is made by any
28 investigator or peace officer as defined by Sections 830.1 and
29 830.2 of the Penal Code, or by any federal law enforcement officer
30 to whom the Attorney General has delegated authority to enforce
31 federal search warrants, as defined under Sections 60.2 and 60.3
32 of Title 28 of the Code of Federal Regulations, as amended, and
33 when the requesting officer has been designated by the head of
34 the law enforcement agency and requests this information in the
35 course of and as a part of an investigation into the commission of
36 a crime when there is a reasonable suspicion that the crime is a
37 felony and that the information would lead to relevant evidence.
38 The information provided pursuant to this subdivision shall be
39 provided to the extent permitted by federal law and regulations,
40 and to the extent the information is available and accessible within

1 the constraints and configurations of existing department records.
2 Any person who receives any information under this subdivision
3 shall make a written report of the information to the law
4 enforcement agency that employs him or her, for filing under the
5 normal procedures of that agency.

6 (1) This subdivision shall not be construed to authorize the
7 release to any law enforcement agency of a general list identifying
8 individuals applying for or receiving benefits.

9 (2) The department shall maintain records pursuant to this
10 subdivision only for periods required under regulations or statutes
11 enacted for the administration of its programs.

12 (3) This subdivision shall not be construed as limiting the
13 information provided to law enforcement agencies to that pertaining
14 only to applicants for, or recipients of, benefits.

15 (4) The department shall notify all applicants for benefits that
16 release of confidential information from their records will not be
17 protected should there be a felony arrest warrant issued against
18 the applicant or in the event of an investigation by a law
19 enforcement agency into the commission of a felony.

20 (j) To provide public employee retirement systems in California
21 with information relating to the earnings of any person who has
22 applied for or is receiving a disability income, disability allowance,
23 or disability retirement allowance, from a public employee
24 retirement system. The earnings information shall be released only
25 upon written request from the governing board specifying that the
26 person has applied for or is receiving a disability allowance or
27 disability retirement allowance from its retirement system. The
28 request may be made by the chief executive officer of the system
29 or by an employee of the system so authorized and identified by
30 name and title by the chief executive officer in writing.

31 (k) To enable the Division of Labor Standards Enforcement in
32 the Department of Industrial Relations to seek criminal, civil, or
33 administrative remedies in connection with the failure to pay, or
34 the unlawful payment of, wages pursuant to Chapter 1
35 (commencing with Section 200) of Part 1 of Division 2 of, and
36 Chapter 1 (commencing with Section 1720) of Part 7 of Division
37 2 of, the Labor Code.

38 (l) To enable federal, state, or local governmental departments
39 or agencies to administer child support enforcement programs

1 under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et
2 seq.).

3 (m) To provide federal, state, or local governmental departments
4 or agencies with wage and claim information in its possession that
5 will assist those departments and agencies in the administration
6 of the Victims of Crime Program or in the location of victims of
7 crime who, by state mandate or court order, are entitled to
8 restitution that has been or can be recovered.

9 (n) To provide federal, state, or local governmental departments
10 or agencies with information concerning any individuals who are
11 or have been:

12 (1) Directed by state mandate or court order to pay restitution,
13 fines, penalties, assessments, or fees as a result of a violation of
14 law.

15 (2) Delinquent or in default on guaranteed student loans or who
16 owe repayment of funds received through other financial assistance
17 programs administered by those agencies. The information released
18 by the director for the purposes of this paragraph shall not include
19 unemployment insurance benefit information.

20 (o) To provide an authorized governmental agency with any or
21 all relevant information that relates to any specific workers'
22 compensation insurance fraud investigation. The information shall
23 be provided to the extent permitted by federal law and regulations.
24 For the purposes of this subdivision, "authorized governmental
25 agency" means the district attorney of any county, the office of
26 the Attorney General, the Department of Industrial Relations, and
27 the Department of Insurance. An authorized governmental agency
28 may disclose this information to the State Bar, the Medical Board
29 of California, or any other licensing board or department whose
30 licensee is the subject of a workers' compensation insurance fraud
31 investigation. This subdivision shall not prevent any authorized
32 governmental agency from reporting to any board or department
33 the suspected misconduct of any licensee of that body.

34 (p) To enable the Director of the Bureau for Private
35 Postsecondary and Vocational Education, or his or her
36 representatives, to access unemployment insurance quarterly wage
37 data on a case-by-case basis to verify information on school
38 administrators, school staff, and students provided by those schools
39 who are being investigated for possible violations of Chapter 7

1 (commencing with Section 94700) of Part 59 of the Education
2 Code.

3 (q) To provide employment tax information to the tax officials
4 of Mexico, if a reciprocal agreement exists. For purposes of this
5 subdivision, “reciprocal agreement” means a formal agreement to
6 exchange information between national taxing officials of Mexico
7 and taxing authorities of the State Board of Equalization, the
8 Franchise Tax Board, and the Employment Development
9 Department. Furthermore, the reciprocal agreement shall be limited
10 to the exchange of information that is essential for tax
11 administration purposes only. Taxing authorities of the State of
12 California shall be granted tax information only on California
13 residents. Taxing authorities of Mexico shall be granted tax
14 information only on Mexican nationals.

15 (r) To enable city and county planning agencies to develop
16 economic forecasts for planning purposes. The information shall
17 be limited to businesses within the jurisdiction of the city or county
18 whose planning agency is requesting the information, and shall
19 not include information regarding individual employees.

20 (s) To provide the State Department of Developmental Services
21 with wage and employer information that will assist in the
22 collection of moneys owed by the recipient, parent, or any other
23 legally liable individual for services and supports provided pursuant
24 to Chapter 9 (commencing with Section 4775) of Division 4.5 of,
25 and Chapter 2 (commencing with Section 7200) and Chapter 3
26 (commencing with Section 7500) of Division 7 of, the Welfare
27 and Institutions Code.

28 (t) Nothing in this section shall be construed to authorize or
29 permit the use of information obtained in the administration of this
30 code by any private collection agency.

31 (u) The disclosure of the name and address of an individual or
32 business entity that was issued an assessment that included
33 penalties under Section 1128 or 1128.1 shall not be in violation
34 of Section 1094 if the assessment is final. The disclosure may also
35 include any of the following:

36 (1) The total amount of the assessment.

37 (2) The amount of the penalty imposed under Section 1128 or
38 1128.1 that is included in the assessment.

39 (3) The facts that resulted in the charging of the penalty under
40 Section 1128 or 1128.1.

1 (v) To enable the Contractors' State License Board to verify
2 the employment history of an individual applying for licensure
3 pursuant to Section 7068 of the Business and Professions Code.

4 (w) To provide any peace officer with the Division of
5 Investigation in the Department of Consumer Affairs information
6 pursuant to subdivision (i) when the requesting peace officer has
7 been designated by the Chief of the Division of Investigation and
8 requests this information in the course of and as part of an
9 investigation into the commission of a crime or other unlawful act
10 when there is reasonable suspicion to believe that the crime or act
11 may be connected to the information requested and would lead to
12 relevant information regarding the crime or unlawful act.

13 (x) To enable the Labor Commissioner of the Division of Labor
14 Standards Enforcement in the Department of Industrial Relations
15 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully
16 uninsured employers. The information shall be provided to the
17 extent permitted by federal law and regulations.

18 (y) To enable the Chancellor of the California Community
19 Colleges, in accordance with the requirements of Section 84754.5
20 of the Education Code, to obtain quarterly wage data, commencing
21 January 1, 1993, on students who have attended one or more
22 community colleges, to assess the impact of education on the
23 employment and earnings of students, to conduct the annual
24 evaluation of district-level and individual college performance in
25 achieving priority educational outcomes, and to submit the required
26 reports to the Legislature and the Governor. The information shall
27 be provided to the extent permitted by federal statutes and
28 regulations.

29 (z) To enable the Public Employees' Retirement System to seek
30 criminal, civil, or administrative remedies in connection with the
31 unlawful application for, or receipt of, benefits provided under
32 Part 3 (commencing with Section 20000) of Division 5 of Title 2
33 of the Government Code.

34 (aa) To enable the Office of Statewide Health Planning and
35 Development to obtain labor market, workforce, and earnings data
36 ~~for the purpose of collecting health care workforce data for the~~
37 *Development to utilize data within the director's possession for*
38 *the purpose of the* health care workforce clearinghouse established
39 pursuant to Section 128050 of the Health and Safety Code.
40 Personally identifiable information ~~obtained~~ *utilized* by the Office

1 of Statewide Health Planning and Development pursuant to this
2 subdivision shall be confidential and not subject to public
3 inspection.

4 SEC. 4. The Legislature finds and declares that Sections 1, 2,
5 and 3 of this act impose a limitation on the public's right of access
6 to the meetings of public bodies or the writings of public officials
7 and agencies within the meaning of Section 3 of Article I of the
8 California Constitution. Pursuant to that constitutional provision,
9 the Legislature makes the following findings to demonstrate the
10 interest protected by this limitation and the need for protecting
11 that interest:

12 In order to protect the privacy of individual members of the
13 health care workforce, it is necessary to ensure that personally
14 identifiable information regarding those individuals is protected
15 as confidential.